

J. David Weeks
Vice-Chairman

Michael A. Pitts
Chairman

Chandra E. Dillard
Secretary

Beth E. Bernstein
Heather Ammons Crawford
F. Gregory "Greg" Delloney, Jr.
John Richard C. King

Dennis Carroll Moss
G. Murrell Smith, Jr.
Leonidas E. "Leon" Stavrinakis

Jane O. Shuler
Counsel

House Legislative Ethics Committee



Lynne Short
Executive Assistant

P.O. BOX 11867
519 BLATT BUILDING
COLUMBIA, SC 29211
TELEPHONE: 803-734-3114
FAX: 803-734-8795

ADVISORY OPINION 2018 - 9

The House Legislative Ethics Committee (Committee) received a request from a Member for an advisory opinion. The Member questioned whether he or she could pay a family member from campaign funds for work performed on the campaign, and if so, what documentation was required for payment.

Pursuant to House Rule 4.16C.(4), the Committee renders the following advisory opinion.

DISCUSSION

S.C. Code § 8-13-1348 provides:

(A) No candidate, committee, public official, or political party may use campaign funds to defray personal expenses which are unrelated to the campaign or the office if the candidate is an officeholder nor may these funds be converted to personal use. The prohibition of this subsection does not extend to the incidental personal use of campaign materials or equipment nor to an expenditure used to defray any ordinary expenses incurred in connection with an individual's duties as a holder of elective office.

S.C. Code § 8-13-1348(A). Thus, campaign funds may be used for campaign expenditures or expenditures related to the office the Member holds.

Recently, in SEC AO2017-002, the State Ethics Commission (Commission) addressed whether a Candidate may use campaign funds to pay for services performed by a candidate's family member.

[T]he Commission acknowledges that using campaign funds for services rendered by a candidate's business, a family business, or a family member is a practice susceptible to abuse. Accordingly, this general statement of permissibility comes with several caveats, the paramount one being that the expenditures must be *bona fide*. Put another way, the

expenditures must be genuine and not an artifice to enrich a candidate's businesses with campaign funds. If campaign funds are being used for a tangible, easily documentable service, then the Commission presumes that this service is presumably *bona fide* so long as a receipt can be provided. ... [W]hen wage payments for services such as "sign removal," "phone calls," "canvassing," or "general campaign work" are made to family members, due to the vague nature of this work, the potential for abuse is greater.

SEC AO2017-002, p. 2. To address the potential abuse of Candidates expending campaign funds to a personal business or family member, the Commission issued a series of guidelines as follows: 1) a Candidate must pay the fair market value for services performed under these circumstances; 2) campaign funds used to pay a family member for services rendered as a result of the campaign are subject to heightened scrutiny to ensure the payment is *bona fide*. Additional documentation for wage work, such as a detailed statement of work performed by the family member, is required to justify the campaign expenditure; and 3) the documentation for services such as "advising," "consulting," or similar services rendered by family member "must actually be in the business for which they are receiving payment." SEC AO 2017-002, pp. 2 -3.

Accordingly, the Committee adopts the three guidelines enumerated in SEC AO2017-002, and finds that a Member or Candidate who pays a family member for work performed on the campaign with campaign funds must pay the fair market value for services rendered, the payment must be *bona fide*, and documentation must be signed by the family member noting the specific services performed, date of the services, and payment made. The documentation must be maintained in the Member or Candidate's campaign records.

CONCLUSION

In summary, it is permissible for a Member or Candidate to use campaign funds to pay a family member for work performed on the Member or Candidate's campaign. A Candidate must pay the fair market value for *bona fide* services rendered and must maintain signed documentation regarding the work performed by the family member.

Adopted August 14, 2018.